

Notice of Rulemaking Hearing

Department of Mental Health and Developmental Disabilities Office of Licensure

There will be a hearing before the Tennessee Department of Mental Health and Developmental Disabilities, Office of Licensure to consider the promulgation of amended rules and repeal of rules pursuant to T.C.A. §§ 4-4-103, 4-5-202, and 204, and 33-1-302, 305, and 309, 33-2-301 and 302, and 33-2-404. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Commissioner's Large Conference Room on the 3rd Floor of the Cordell Hull Building located at 425 5th Avenue North, Nashville, Tennessee at 10:00 a.m. Central Daylight Time on the 16th day of May, 2008.

Individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Tennessee Department of Mental Health and Developmental Disabilities, to discuss any auxiliary aids or services needed to facilitate such participation or review. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to the scheduled meeting date or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Mental Health and Developmental Disabilities ADA Coordinator, Gwen Hamer, 5th Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, Tennessee 37243. Ms. Hamer's telephone number is (615) 532-6510; the department's TDD is (615) 532-6612. Copies of the notice are available from the Tennessee Department of Mental Health and Developmental Disabilities in alternative format upon request.

For a copy of the entire text of this notice of rulemaking hearing contact:

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Substance of Proposed Rules

Amendments

Chapter 0940-05-41 Minimum Program Requirements for Alcohol and Drug Abuse Halfway House Treatment Facilities

Table of Contents

0940-05-41-.01	Definitions
0940-05-41-.02	Application of Rules
0940-05-41-.03	Policies and Procedures
0940-05-41-.04	Personnel and Staffing Requirements
0940-05-41-.05	Service Recipient Assessment Requirements
0940-05-41-.06	Individual Program Plan (IPP) Requirements
0940-05-41-.07	Individual Program Plan (IPP) Monitoring and Review Requirements
0940-05-41-.08	Service Recipient Record Requirements
0940-05-41-.09	Professional Services
0940-05-41-.10	Service Recipient Medication Administration Requirements
0940-05-41-.11	Health Provisions for Service Recipients

0940-05-41-.01 Definitions.

- (1) "Alcohol and Drug Abuse Halfway House Treatment Facility" means a transitional residential program which offers services to service recipients with the primary purpose

of establishing vocational stability and counseling focused on re-entering the community. Service recipients are expected to be able to self-administer medication, working, seeking work, or attending vocational/educational activities away from the residence for part of the day. Services include counseling contacts, lectures, seminars, and other services necessary to meet the service recipient's assessed needs.

0940-05-41-.02 Applicable Rules.

- (1) The governing body of a Halfway House Treatment Facility must comply with the following rules:
 - (a) Rules for Health Occupancy classification found in 0940-5-4;
 - (b) Rules for Adequacy of Facility Environment and Ancillary Services found in 0940-5-5;
 - (c) Minimum Program Requirements for all Facilities found in 0940-5-6;
 - (d) Minimum Program Requirements for Alcohol and Drug Abuse Halfway House Facilities found in 0940-05-41; and
 - (e) Rules for Residential Isolation and Restraint found in 0940-3-9.

0940-05-41-.03 Policies and Procedures.

- (1) The facility must maintain a written policy and procedure manual which includes the following:
 - (a) The intake and assessment process;
 - (b) A description of its aftercare service;
 - (c) A written policy ensuring that employees and volunteers practice universal precautions to prevent transmission of infections, HIV, and communicable diseases;
 - (d) Written guidelines and techniques for volunteers and employees to monitor, control and report facility infections;
 - (e) A quality assurance procedure which assesses the quality of care at the facility. This procedure must ensure treatment has been delivered according to clinical practice;
 - (f) Drug testing procedures if used by the facility;
 - (g) Exclusion criteria for persons not appropriate for the facility's services;
 - (h) If a facility uses restrictive procedures to manage disruptive behaviors, the written policies and procedures governing this use must comply with the Department of Mental Health and Developmental Disabilities Residential Seclusion & Restraint Rules, 0940-3-9;
 - (i) A written policy and procedure that establishes when employment is appropriate and requires all service recipients be gainfully employed, actively pursuing employment, or participating in vocation education/rehabilitation;

- (j) The facility must have a written weekly schedule of all program services and service recipient activities for each day specifying the type of service/activities and scheduled times;
- (k) The facility shall provide to the service recipient, upon admission, a written statement outlining in simple, non-technical language all rights of service recipients under Title 33. These rights must include provisions to prohibit the following:
 - a. A service recipient must not be denied adequate food, treatment/rehabilitation activities, religious activities, mail or other contacts with family as punishment.
 - b. A service recipient must not be confined to his/her room or other place of isolation as punishment. This does not preclude requesting individuals to remove themselves from potentially harmful situations in order to regain self-control; and
- (l) The facility shall provide a policy that identifies efforts to reduce the use of isolation and restraint.

0940-05-41-.04 Personnel and Staffing Requirements.

- (1) Direct treatment and/or rehabilitation services must be provided by qualified alcohol and drug abuse personnel who as a requirement of employment were subject to a criminal background and abuse registry check.
- (2) A physician must be employed or retained by written agreement to serve as medical consultant to the program.
- (3) The facility must provide at least one (1) on-duty staff member certified in Cardiopulmonary Resuscitation (CPR), First Aid, and the Abdominal Thrust.
- (4) During waking hours, the facility must maintain an on duty/on site staff-to-service recipient ratio of at least one (1) to sixteen (16) when service recipients are present. During sleeping hours, facilities must provide at least one (1) awake on duty/on site staff person for each thirty (30) service recipients.
- (5) The facility must provide annual STD/HIV education to all direct care staff.
- (6) All new employees, including volunteers, who have routine contact with service recipients, must have a current tuberculosis test prior to service recipient contact.
- (7) Employees must have a tuberculin skin test annually and at the time of exposure to active TB and three (3) months after exposure.
- (8) Employee records must include date and type of tuberculin skin test used and date of tuberculin skin test results, date and results of chest x-ray, and any medication treatment for tuberculosis.

0940-05-41-.05 Service Recipient Assessment Requirements.

- (1) The facility must document that the following assessments are completed prior to development of the Individual Program Plan (IPP); re-admission assessments must document the following information from the date of last service:

- (a) Assessment of current functioning according to presenting problem including history of the presenting problem;
- (b) Basic medical history and determination of the necessity of a medical evaluation and a copy, where applicable, of the results of the medical evaluation;
- (c) Assessment information must include employment/educational/ financial, emotional/psychological health, social/family/peer, physical health, legal, community living skills/housing information and the impact of the service recipient's substance abuse in each area; and
- (d) A six (6) month history of prescribed medications, frequently used over-the-counter medications, and alcohol or other drugs including patterns of specific usage for the past thirty (30) days.

0940-05-41-.06 Individual Program Plan (IPP) Requirements.

- (1) An IPP which meets the following requirements must be developed and documented for each service recipient:
 - (a) Developed within seven (7) days of admission;
 - (b) Includes the service recipient's name;
 - (c) Includes the date of development;
 - (d) Standardized diagnostic formulation(s) including but not limited to the current Diagnostic and Statistical Manual (DSM) and/or International Classification of Diseases (ICD) and/or American Society of Addiction Medicine, Patient Placement Criteria for the Treatment of Substance Abuse Disorders, Second Edition, Revised (ASAM PPC-2R);
 - (e) Includes specified service recipient problems which are to be addressed within the particular service/program component;
 - (f) Includes service recipient goals which are related to specified problems and which are to be addressed within the particular service/program component;
 - (g) Includes interventions addressing goals;
 - (h) Includes planned frequency of contact;
 - (i) Includes the signatures of appropriate staff; and
 - (j) Includes documentation of service recipient's participation in the treatment planning process.

0940-05-41-.07 Individual Program Plan (IPP) Monitoring and Review Requirements.

- (1) Progress notes which include written documentation of progress or changes occurring within the IPP must be made in the individual service recipient record for each treatment contact or on a weekly basis.
- (2) The facility must review and, if indicated, revise the IPP at least every sixty (60) days. The revision shall document any of the following which apply:

- (a) Change in goals and objectives based upon service recipient's documented progress or identification of any new problems;
- (b) Change in primary counselor assignment;
- (c) Change in frequency and types of services provided; and
- (d) A statement documenting the review and an explanation if no changes were made in the IPP.

0940-05-41-.08 Service Recipient Record Requirements.

- (1) The individual service recipient record must include the following:
 - (a) Documentation of all prescribed and over the counter medication the service recipient is currently self-administering indicating the date prescribed if applicable, type, dosage, frequency, amount, and reason;
 - (b) Documentation of the service recipient's employment related problem or problems and goal or goals on the IPP, and the service recipient's progress or lack of progress towards meeting the goal or goals in the progress notes, or clinical justification for an exception to the policy and procedure;
 - (c) A list of each individual article of each service recipient's personal property valued at one hundred dollars (\$100.00) or more including its disposition, if no longer in use;
 - (d) Written accounts of all monies received and disbursed on behalf of the service recipient;
 - (e) Reports of medical problems, accidents, seizures, and illnesses and treatments for such accidents, seizures, and illnesses;
 - (f) Reports of significant behavior incidents;
 - (g) Reports of any instance of physical holding or restriction with documented justification and authorization;
 - (h) A discharge summary which states the date of discharge, reasons for discharge, and referral for other services, if appropriate; and
 - (i) An aftercare plan which specifies the type of contact, planned frequency of contact, and responsible staff; or documentation that the service recipient was offered aftercare but decided not to participate; or documentation that the service recipient dropped out of treatment and is therefore not available for aftercare planning; or verification that the service recipient is admitted for further alcohol and drug treatment services.

0940-05-41-.09 Professional Services.

- (1) The facility must provide services, as available, to service recipients to address their needs as indicated in the assessment/history in the areas of social/family/peer, employment/educational/financial, emotional/ psychological health, physical health, legal, and community living skills/housing. Such services may be provided directly by the agency or

indirectly by referral to other service providers. Referral agreements with frequently used providers must be documented. The provision of such services to individual clients must be documented in the service recipient record.

0940-05-41-.10 Service Recipient Medication Administration Requirements.

- (1) When supervising the administration of medication, the facility must consider the service recipient's self-management skills and ability.
- (2) The facility must ensure that prescription medications are taken only by service recipients for whom they are prescribed, and in accordance with the directions of a physician.
- (3) Discontinued and outdated medication and containers with worn, illegible, or missing labels must be disposed.
- (4) All medication errors, medication reactions, or suspected inappropriate medication use must be reported to the Medical Director of the facility who will report to the prescriber, if known.
- (5) Evidence of the current prescription of each medication taken by a service recipient must be maintained by the facility.
- (6) All direct service staff must be trained about medications used by the service recipient. This training must include information about the purpose and function of the medications, their major side effects and contraindications, and ways to recognize signs that medication is not being taken or is ineffective.
- (7) Staff must have access to medications at all times.
- (8) For any service recipient incapable of self-administration, all medications must be administered by personnel licensed to administer medication.
- (9) Schedule II medications must be stored within two (2) separately locked compartments at all times and be accessible only to staff in charge of administering medication.
- (10) All medications and other medical preparations intended for internal or external human use must be stored in sanitary and secure medicine cabinets or medication rooms. Such cabinet or medication rooms must be kept securely locked when not in use and the key must be in the possession of the supervising nurse or other authorized staff. Locks in doors to medicine cabinets and medication rooms must be such that they require an action on the part of staff to lock and unlock.
- (11) Staff must document each time a service recipient self-administers medication or refuses a medication. This documentation must include the date, time, medication name, and dosage, as well as over the counter medication. This documentation must be made on the medication log sheet in the service recipient's chart.

0940-05-41-.11 Health Provisions for Service Recipients.

- (1) The facility must have provisions that address the following health issues while the service recipient is at the facility:
 - (a) Nutritional needs;
 - (b) Exercise;

- (c) Weight control;
 - (d) Adequate, uninterrupted sleep; and
 - (e) Designated smoking areas outside the building.
- (2) The facility must educate and encourage service recipients in independent exercise of hygiene, and grooming practices, as appropriate.
 - (3) The facility will encourage the use adaptive equipment including but not limited to dental appliances, eyeglasses, and hearing aids if used by service recipients.

Authority: T. C. A. §§ 4-4-103, 4-5-202, 33-1-302, 33-1-305, 33-1-309, 33-2-301, and 33-2-302.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of March, 2008. (FS 03-19-08; DBID 840)